

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,

Plaintiff,

v.

C.A. No. 04-901-JJF

ILLUMINA, INC.,

Defendant.

**SPECIAL VERDICT SHEET**

March 12, 2007

**INFRINGEMENT****INFRINGEMENT OF THE '243 PATENT**

1. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,646,243?

Claim 14	Yes <input checked="" type="checkbox"/>	No _____
Claim 15	Yes <input checked="" type="checkbox"/>	No _____
Claim 35	Yes <input checked="" type="checkbox"/>	No _____

2. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '243 patent?

Claim 14	Yes <input checked="" type="checkbox"/>	No _____
Claim 15	Yes <input checked="" type="checkbox"/>	No _____
Claim 35	Yes <input checked="" type="checkbox"/>	No _____

**INFRINGEMENT OF THE '365 PATENT**

3. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,399,365?

Claim 36	Yes <input checked="" type="checkbox"/>	No _____
Claim 41	Yes <input checked="" type="checkbox"/>	No _____

4. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '365 patent?

Claim 36	Yes <input checked="" type="checkbox"/>	No _____
Claim 41	Yes <input checked="" type="checkbox"/>	No _____

**INFRINGEMENT OF THE '432 PATENT**

5. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,355,432?

Claim 2 Yes  No \_\_\_\_\_  
Claim 9 Yes  No \_\_\_\_\_

6. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '432?

Claim 2 Yes  No \_\_\_\_\_  
Claim 9 Yes  No \_\_\_\_\_

**INFRINGEMENT OF THE '531 PATENT**

7. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,545,531?

Claim 1 Yes  No \_\_\_\_\_  
Claim 2 Yes  No \_\_\_\_\_

8. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '531 patent?

Claim 1 Yes  No \_\_\_\_\_  
Claim 2 Yes  No \_\_\_\_\_

**INFRINGEMENT OF THE '716 PATENT**

9. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,795,716?

Claim 1	Yes _____	No <input checked="" type="checkbox"/>
Claim 5	Yes _____	No <input checked="" type="checkbox"/>
Claim 9	Yes _____	No <input checked="" type="checkbox"/>

10. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '716 patent under the doctrine of equivalents?

Claim 1	Yes <input checked="" type="checkbox"/>	No _____
Claim 5	Yes <input checked="" type="checkbox"/>	No _____
Claim 9	Yes <input checked="" type="checkbox"/>	No _____

11. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '716 patent?

Claim 1	Yes <input checked="" type="checkbox"/>	No _____
Claim 5	Yes <input checked="" type="checkbox"/>	No _____
Claim 9	Yes <input checked="" type="checkbox"/>	No _____

**DAMAGES**

12. If you have found that Illumina has infringed at least one asserted claim from any of the '243, '365, '432, '531 and/or '716 patents, has Affymetrix proven by a preponderance of the evidence that it is entitled to lost profits damages?

Yes \_\_\_\_\_ No

13. If you answered "Yes" to question number 12, what amount of lost profits has Affymetrix proven it is entitled to?

Amount \$ 0

14. For any infringing sales that Affymetrix has not sought lost profits damages for or to which you conclude that Affymetrix is not entitled to lost profits damages, what reasonable royalty has Affymetrix proven by a preponderance of the evidence that it is entitled to?

Royalty 15 %  
Amount \$ 16,727.459.00

You must each sign this Verdict Form:

Dated: 3/13/07

Redacted